FOR ARGUMENT

Supreme Court, U. S.
FILED
AUG 28 1978
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1978
No. 77-1016

UNITED CALIFORNIA BANK and LILLIAN DISNEY TRUYENS, Co-Executors of the Estate of WALTER E. DISNEY,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

PETITIONERS' REPLY BRIEF.

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PETITIONERS' REPLY BRIEF.

ARGUMENT.

Introduction.

The respondent's defense of its interpretation of Internal Revenue Code §1201(b) in this case is, as set forth in the Brief for the United States (hereinafter "Respondent's Brief"), based upon two contentions: first, that the statutory language of §1201(b) permits no reduction of the amount of long-term capital gains[1]

[1]The 25% tax under §1201(b)(2) is applicable, not to long-term capital gains as such, but rather to the "excess of the net long-term capital gain over the net short-term capital loss". However, in a case, such as the instant one, which involves neither long-term nor short-term capital loss it is simpler and no less accurate to refer to the 25% tax as applicable simply to long-term capital gains.

which is subject to the 25% tax under subsection 1201(b)(2); and, second, that the conduit principle has no applicability to charitable beneficiaries of estates and trusts. Both of these contentions are wholly without foundation. In asserting them, the respondent has not only misperceived the language of the statute but has disregarded its own administrative construction thereof.

I.

The Language of §1201(b) Permits the Amount of Long-Term Capital Gains Subject to the Alternative Tax to Be Reduced by the Amount of Long-Term Capital Gains Which an Estate or Trust Pays or Sets Aside for Charity.

The essence of the respondent's argument in this case is that the language of §1201(b) is capable only of that interpretation which the respondent herein seeks to place upon it and that any deviation from the statutory meaning as perceived by the respondent would constitute a "creative rewriting of the Internal Revenue Code."[2] This linguistic analysis of §1201(b) not only is more rigid than the statute requires; it also proves too much, in that it negates the respondent's own preexisting administrative interpretation of §1201(b). As that administrative interpretation demonstrates, even as construed by the respondent the language of §1201(b) does not constitute the linguistic straitjacket for which the respondent in this case contends.

The function of §1201(b) is to prescribe the alternative tax on long-term capital gains for all non-corporate taxpayers. As discussed more fully in Petitioners' Opening Brief,[3] this alternative tax consists of two components: first, a partial tax, computed under §1201(b)(1) and designed to equal the income tax which would be imposed on the taxpayer's ordinary net income (*i.e.*, the taxpayer's net income exclusive of long-term capital gains); second, the tax on long-term capital gains, computed under §1201(b)(2) as "an amount equal to 25 percent of the excess of the net long-term capital gain over the net short-term capital loss." The respondent in this case contends that the language of §1201(b), in referring to such "excess", is not susceptible of any interpretation which would permit such "excess" to be reduced by any offset. According to the respondent, the statutory language "provides a uniform verbal formula . . . unaffected by the amount of such gains set aside for charity, or, indeed, any other deduction that might otherwise be available as an offset against income."[4] The respondent's mechani-

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[2]Respondent's Brief at p. 24, quoting *United States v. Foster Lumber Co.*, 429 U.S. 32 at 49 (Stevens, J., concurring).

[3]Petitioners' Opening Brief, footnote 4 at p. 4, footnote 7 at p. 6.

[4]Respondent's Brief, pp. 20-21.

Respondent attempts to support the construction of §1201(b) for which it contends in this case by appealing to the legislative history of the alternative tax. (Respondent's Brief, pp. 26-32.) That legislative history may well support the result reached in the case of *Walter M. Weil* (1954), 23 Tax Ct. 424, aff'd (6th Cir. 1956), 229 F.2d 593, which involved an excess of the taxpayer's ordinary deductions over his ordinary income. It is not, however, relevant to the question of whether the amount of long-term capital gains subject to the alternative tax should include that portion of such gains which is payable to an estate or trust's charitable beneficiary and which is vested in said charitable beneficiary even prior to its receipt by the estate or trust. That Congress may have considered and decided not to permit, for purposes of the alternative tax computation, a reduction of long-term capital gains by the excess of ordinary deductions over ordinary income does not at all speak to the question of which, and whose, long-term capital gains are to be included within the measure on which the alternative tax is computed.

cal analysis of the statutory language is inconsistent not only with judicial precedent;[5] it is inconsistent also with the respondent's own interpretation of the statute, which interpretation (prior to this case) has been manifested principally in two contexts. One was the respondent's litigation position in *Sidles*,[6] in which the respondent contended that where income in respect of a decedent consists solely of long-term capital gains and the estate utilizes the alternative tax, the deduction permitted by §691(c) should be available *only* as an offset against the capital gains to which the alternative tax is applied, rather than being available as a deduction from ordinary income.[7] The other has been the respondent's administrative treatment of long-term capital gains distributed by an estate or trust to its taxable beneficiaries.

Under the respondent's analysis of §1201(b), as set forth in its brief herein,[8] the language of the statute permits no reduction of the statutorily defined "excess" by *any* deduction that might be available as an offset against income. From this analysis, it logically must follow, in the case of an estate or

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[5]As discussed in Petitioners' Opening Brief, at pp. 24-27, it is now well established that the language of §1201(b) does permit such an offset against long-term capital gains, in the situation of an otherwise unused deduction (permitted by §691(c)) for the federal estate tax attributable to "income in respect of a decedent." See, *Read v. United States* (5th Cir. 1963), 320 F.2d 550, *Meissner v. United States* (Ct.Cl. 1966), 364 F.2d 409, and *Estate of Harry B. Sidles* (1976), 65 Tax Ct. 873.

[6]*Estate of Harry B. Sidles* (1976), 65 Tax Ct. 873.

[7]As discussed in Petitioners' Opening Brief, footnote 17 at p. 26, the Tax Court rejected the respondent's argument and held instead that the estate could utilize the §691(c) deduction in whatever manner was most advantageous to it.

[8]Respondent's Brief, pp. 17-25.

trust receiving long-term capital gains and distributing such gains to a taxable beneficiary, that the tax on the estate or trust's capital gains under §1201(b) must be computed on *all* of the gains received by that entity (or on all of the "excess"), unreduced by any gains which the estate or trust has distributed to its taxable beneficiary and for which it has been allowed a distributions deduction under §661(a). Contrary to that logical result, however, the respondent's own administrative interpretation of §1201(b) in fact does permit the amount of such distributions to reduce the amount of gains on which the estate or trust's alternative tax is computed.

The respondent's administrative interpretation of §1201(b) is contained in the pertinent income tax return forms which the respondent has prescribed, and in the respondent's instructions thereto. In the case of an estate or trust these forms consist of the U.S Fiduciary Income Tax Return (Form 1041) and of the Schedule D thereto, entitled Gains and Losses From Sales or Exchanges of Property. Copies of these forms, together with the appropriate instructions, for the year 1968 (the later of the two years at issue herein), are attached hereto as Exhibit A. In order to illustrate the inconsistency between the respondent's statutory analysis in this case and the respondent's administrative interpretation in the case of long-term capital gains passing to an estate or trust's taxable beneficiaries, these forms have been completed, in relevant part, pursuant to the respondent's instructions, based upon an assumed hypothetical situation in which an estate or trust's sole income, gross and net, is $100,000 in long-term capital gains, of which $40,000

is to be paid or set aside for charity and $60,000 is to be distributed to a taxable beneficiary. As can be seen from the "Computation of Alternative Tax" set forth on lines 17 through 22 of Schedule D, the resulting alternative tax is $10,000, which amount represents 25% of only the $40,000 of capital gains which was paid or set aside for charity, or, expressed somewhat differently, 25% of all the capital gains received by the estate or trust ($100,000) *reduced by* the amount of capital gains distributed to the estate or trust's taxable beneficiary ($60,000).[9]

The respondent's application of §1201(b) in the case of long-term capital gains distributed to an estate or trust's taxable beneficiaries is thus a blatant contradiction of the "uniform verbal formula" which the respondent purportedly perceives in the statutory language, both in its allowance of a supposedly prohibited offset (in the determination of the amount of capital gains to which the alternative tax is applied), and in its singling out of the capital gains passing to charity for the denial of that offset.[10] The respondent would presumably attempt to justify this non-uniform application of its "uniform verbal formula" on the ground that amounts distributable to taxable beneficiaries of an estate or trust are subject to the conduit principle and that the conduit principle must take precedence over the respondent's otherwise immutable reading of §1201(b). Amounts passing to charitable beneficiaries, on the other hand, are not, according to the respondent, subject to the conduit principle, and thus such amounts must fall victim to the respondent's purported "uniform verbal formula." As set forth in the following section, the respondent's denial of the conduit principle's applicability to amounts passing to charity is as fallacious as the respondent's analysis of the statutory language of §1201(b).

[9]Tracing the example through the forms and instructions, it can be seen that the alternative tax shown on line 22 of Schedule D is equal to 50% of the amount shown on line 18, which amount, in turn, is equal to 50% of the amount shown on line 13(e). That amount, $40,000, is arrived at by subtracting from the total long-term capital gain, shown on lines 13(a) and (c) as $100,000, that portion thereof which the form describes as "taxable to beneficiaries", in the amount of $60,000 (at line 13(d)). This amount, in turn, is derived from column 1 of line 11, which is the column headed "Beneficiaries", as distinguished from column 2, headed "Fiduciary."

As can be seen from that section of the instructions to Schedule D which is entitled "Allocation of capital gains and losses", the return form reflects a general rule that gains "allocable to the beneficiary or beneficiaries" are to be entered in column 1 of line 11, subject to the specific provision that "any capital gains paid, or permanently set aside for the purpose specified in section 642(c) should be entered in column 2." Since the amount deductible at line 13(d) is limited to that portion of the capital gains which the form treats as allocable to a beneficiary, the result is an alternative tax computed on an amount which excludes the capital gains allocable to a taxable beneficiary but which is required to include capital gains allocable to a charitable beneficiary.

[10]The arbitrary restriction upon the statutory language of §1201(b), which the respondent here seeks to apply in the case of capital gains passing to charity, is itself a "creative rewriting of the Internal Revenue Code" (*United States v. Foster Lumber Co.*, 429 U.S. 32, at 49 [Stevens, J., concurring]) such as to be more properly the object of respondent's censure than of its support. It might be noted in this regard that the respondent also errs in alleging that the petitioners' interpretation of §1201(b) would "cumulate the benefits of the alternative tax and the ordinary income deductions." (Respondent's Brief, pp. 11, 24.) As demonstrated in their Opening Brief (hypothetical example at pp. 32-35), the petitioners' interpretation of §1201(b) results in an alternative tax precisely equal to that which would result if the amounts passing to charity from the estate or trust had never been received by that entity. It is rather the respondent's statutory construction, through the multiple deduction in which it results in the computation of the partial tax under §1201(b)(1) (Petitioners' Opening Brief, pp. 29-36), which might more aptly be characterized as tending to "cumulate" deductions.

II.

The Conduit Principle Is Applicable to Amounts Which an Estate or Trust Pays or Sets Aside for Charity.

The respondent's analysis of the conduit principle in this case is premised both upon a misstatement of the petitioners' argument and upon a disregard of the respondent's own administrative interpretation.

A. The Respondent Has Failed to Address the Petitioners' Analysis of the Conduit Principle.

In their opening brief herein, petitioners set forth their analysis of the pertinent provisions of Subchapter J (§§641-692) of the Internal Revenue Code, as demonstrating the applicability of the conduit principle to amounts which an estate or trust pays or sets aside for charity.[11] Specifically, the petitioners referred to §642(c) as the embodiment of that applicability and as manifesting what petitioners termed a "charitable conduit," in contradistinction to the "taxable conduit," reflected in §§661 and 662.[12] The respondent, in its brief herein, does not attempt to refute this analysis, but simply misstates it, apparently so that the respondent can then attack a spurious analysis of its own imagination.

As stated by the respondent, "[t]he fundamental error in petitioners' position . . . is the assumption that capital gains set aside by an estate for charity are subject to the conduit rules of Sections 661 and 662."[13] But, as indicated above, the petitioners have never assumed, or even contended, that the conduit

[11]Petitioners' Opening Brief at pp. 14-18.

[12]Petitioners' Opening Brief, footnote 14 at p. 17.

[13]Respondent's Brief, p. 35.

rules reflected in §§661 and 662 were designed to cover amounts set aside for charity. To the contrary, petitioners have described the provisions of Subchapter J as providing for two distinct conduits, one being the charitable conduit, manifested in §642(c) for amounts paid or set aside for charity, and the other being the taxable conduit, reflected in §§661 and 662 for amounts distributed to an estate or trust's taxable beneficiaries. Accordingly, the respondent's assertion that amounts set aside for charity are excluded from the operation of §§661 and 662 is wholly consistent with the petitioners' analysis of the statutory provisions.

B. The Respondent Has Disregarded Its Own Administrative Interpretation of the Conduit Principle.

As the foregoing section indicates, the respondent's analysis of the conduit principle is premised upon a misstatement of petitioners' position respecting the operation of, and the relationship between, §642(c) and §§661 and 662. The respondent compounds the error of its analysis (both with respect to the operation of the statutory provisions and with respect to the petitioners' contentions in that regard) by wrongfully attributing to petitioners a contention that capital gains passing to charity are included within "the definition of distributable net income in §643(a)(3)"[14] and by then proceeding to misconstrue the operation of §643(a)(3) in supposed conformity to that alleged contention and in total disregard of respondent's own administrative interpretation of §643(a).

[14]Respondent's Brief, p. 37. Compare discussion in Petitioners' Opening Brief, footnote 14 at pp. 17-18. As noted therein, distributable net income functions as the measuring device for the amount of income which may pass through the taxable conduit under §§661 and 662.

According to the respondent, the computation of distributable net income under §643(a) operates to "add back" (to the amount of taxable income which is the starting point of the distributable net income computation) the amount of capital gains set aside for charity, with the result that distributable net income, as computed under §643(a), includes the amount of capital gains set aside for charity "in order to prevent a non-charitable beneficiary from deriving an advantage from the estate's charitable deduction."[15] As a demonstration of this purported statutory mechanism, and the imagined congressional policy which it is supposedly designed to implement, the respondent posits a hypothetical situation[16] in which an estate has received ordinary gross income of $60,000 and net long-term capital gains of $40,000, and, pursuant to the will, the entire $40,000 is to be distributed to charity. According to the respondent, the supposed "capital gains add-back" of §643(a) will result, in the hypothetical, in distributable net income of $100,000 (in spite of the fact that the estate's taxable income was $60,000), and that $100,000 rather than $60,000 will be the limit on which the estate's taxable beneficiaries can be taxed for amounts distributed to them.

While respondent's interpretation of §643(a), as set forth in its brief herein and specifically in the hypothetical example described above, might be consistent with respondent's analysis of the conduit principle for purposes of this lawsuit, that interpretation is inconsistent both with the statutory language and with the respondent's existing administrative interpretation, as contained

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[15]Respondent's Brief, p. 38.

[16]Respondent's Brief, footnote 18, at pp. 38-39.

in the return forms and instructions which the respondent itself has promulgated. Attached hereto as Exhibit B are copies of the U.S. Fiduciary Income Tax Return (Form 1041) and the related schedule entitled Gains and Losses From Sales or Exchanges of Property (Schedule D), for the year 1968, completed, in relevant part, on the basis of the figures contained in the respondent's hypothetical example referred to above and on the basis of the "1968 Instructions for Form 1041." (A copy of said Instructions is included as a part of Exhibit A hereto.) As these forms demonstrate, the application of the respondent's instructions to the respondent's hypothetical example results in distributable net income (as set forth in Schedule C of the Form 1041), not in the amount of $100,000 as the respondent contends, but rather in the amount of $60,000, *i.e.*, the amount of the estate's income exclusive of the capital gains set aside for charity.[17]

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[17]The computation of distributable net income, contained in Schedule C, begins on line 1 of that Schedule with $80,000, which is the amount of gross income ($100,000) less the amount of the charitable deduction ($20,000, or 50% of the $40,000 capital gain). To this $80,000 is added (by line 2c), the amount of the charitable deduction attributable to capital gains ($20,000), as computed at lines 4 and 7 of Schedule B. (Under the instructions to Schedule B, line 4 would contain 50% of capital gains allocable to income and line 7 would contain 50% of capital gains allocable to corpus. Thus, depending on one's assumption as to the allocability (under the pertinent local law) of the capital gains as between income and corpus, 50% thereof must appear either on line 4 or line 7 of Schedule B; for purposes of the example, the capital gain has been treated as allocable to corpus, and hence 50% thereof appears on line 7 of Schedule B.)

From the total of $100,000 ($80,000 plus $20,000) on line 3, there is deducted, by line 4 of Schedule C, the full amount of net capital gain ($40,000), resulting in distributable net income, at line 5, of $60,000.

A critical element in the computation prescribed by the forms and instructions, and one which highlights the difference

(This footnote is continued on next page)

As set forth in Petitioners' Opening Brief, distributable net income becomes the measuring instrument for the taxable conduit reflected in §§661 and 662, and it is therefore appropriate that amounts which have in effect passed through the charitable conduit of §642(c) should not be included in distributable net income. The respondent's hypothetical example, through the application of the respondent's own published instructions (as distinguished from the respondent's conclusory analysis of that hypothetical as contained in its brief herein), demonstrates that §643(a) does, in fact, accomplish the exclusion of capital gains set aside for charity from distributable net income and thereby reflects the integrity and distinctness of the two conduits, charitable and taxable, which are manifested in Subchapter J.

In its effort to substantiate its distorted version of the conduit principle, the respondent also makes reference to "the special computational rule of Section 662 (a)(1)".[18] This section provides that a beneficiary receiving income "required to be distributed currently" may be required to include such receipts in his taxable income to the extent of his share of distributable net

between capital gains which are allocable to charities and those which are allocable to non-charitable beneficiaries, is the provision at line 2b of Schedule C for the addition to taxable income of the "[n]et gain shown on line 12, column 1, Schedule D, Form 1041." Since the instructions to Schedule D provide for the entry in "column 2", rather than in "column 1", of "any capital gains paid, or permanently set aside for the purpose specified in §642(c)", capital gains which are paid or set aside for a charitable beneficiary are omitted at this stage of the distributable net income computation and are thereby effectively excluded from the amount of distributable net income, as derived at line 5 of Schedule C.

[18]Respondent's Brief, p. 41.

income, as computed *without* regard to the charitable deduction allowed under §642(c). Section 662(a)(1) thus operates, within its limited scope, as the "add-back" provision which the respondent has mistakenly perceived in §643(a). However, the "add-back" of §662(a)(1) is not, as the respondent contends, inconsistent with the operation of §642(c) as a charitable conduit or with the operation of §643(a) as reflecting the distinction between the charitable and taxable conduits. To the contrary, the very fact that §662(a)(1) contains such an "add-back" provision is compelling proof that, as defined by §643(a) (and except as modified by application of the special statutory provision contained in §662(a)(1)), distributable net income does not include those amounts which pass to a charitable beneficiary and are deductible by the estate or trust under §642(c).[19]

[19]The "add-back" provision of §662(a)(1) is entirely consistent with, and in fact reflective of, the reality and distinctness of the two conduits manifested in Subchapter J. Except in the situation covered by that subsection's limited scope, the general rule still prevails: amounts deductible under §642(c) are treated as passing through the charitable conduit and hence are not includable within distributable net income, which defines the amount available for passage through the taxable conduit and potentially taxable to the estate or trust's taxable beneficiaries. Thus, those taxable beneficiaries who receive amounts described in §662(a)(2) (*i.e.*, anything other than "income required to be distributed currently") are limited, as to their taxability for such amounts, to distributable net income which does not include amounts passing through the charitable conduit under §642(c). The effect of §662(a)(1) is simply to provide that, in the case of a beneficiary receiving "income required to be distributed currently", the priority of the conduits is to be reversed and that, as far as *that* taxable beneficiary is concerned, the income of the estate or trust is treated as passing first through his conduit, before application of the charitable conduit of §642(c). Such express provision for an exception to the general rule, in the case of the §662(a)(1) beneficiary, serves to highlight the reality and general priority of the charitable conduit.

The respondent's misconstruction in this case of the operation of §643(a), in complete disregard of its own administrative construction, illustrates the faulty reasoning upon which the respondent's analysis of the conduit principle is based. Both by such misconstruction and by misperceiving the petitioners' analysis of the conduit principle, the respondent has avoided facing, and has left unanswered, the manifestation of that principle in §642(c).

Conclusion.

The application of the alternative tax for which the respondent contends in this case is premised, first, upon a mechanical reading of §1201(b), so as to preclude any reduction of the amount of the long-term capital gains "excess" which is subject to the 25% tax under §1201(b)(2), and second, upon a distorted reading of Subchapter J, so as to deny the applicability of the conduit principle to amounts passing to charitable beneficiaries of estates and trusts. These statutory interpretations by the respondent are violative both of established judicial construction and of the respondent's own administrative construction of the statutory language. As set forth herein and in Petitioners' Opening Brief, the language of §1201(b) *does* permit the amount of capital gains subject to the 25% tax under §1201(b)(2) to be reduced by long-term capital gains passing to charity, and the conduit principle manifested in Subchapter J of the Internal Revenue Code, and specifically in §642(c),

does apply to the charitable beneficiaries of estates and trusts.

For all of the reasons stated herein and in their Opening Brief, the petitioners respectfully request that the decision by the Ninth Circuit Court of Appeals herein be reversed.

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FORM **1041**
U.S. Treasury Department
Internal Revenue Service

U.S. Fiduciary Income Tax Return

for the year January 1–December 31, 1968, or other taxable year
beginning _____, 1968, ending _____, 19__

1968

PLEASE PRINT OR TYPE

Check whether:
- ☐ Estate
- ☐ Simple trust
- ☐ Complex trust

If trust, check whether:
- ☐ Testamentary
- ☐ Inter vivos

Name of estate or trust | Employer Identification Number

Name and title of fiduciary

Address of fiduciary (number and street)

City, State, and ZIP code

Simple trusts are not required to fill in Schedules B and C.

INCOME	1 Dividends (Enter full amount before exclusion)		
	2 Interest		
	3 Income from partnerships and other fiduciaries		
	4 Gross rents and royalties		
	5 Gross profit (loss) from trade or business		
	6 Net gain (loss) from capital assets (line 12, column 3, Schedule D, Form 1041)	100,000	
	7 Net gain (loss) from property other than capital assets (line 24, Schedule D, Form 1041)		
	8 Other income (State nature of income)		
	9 Total income (lines 1 to 8, inclusive)		100,000
DEDUCTIONS	10 Interest		
	11 Taxes		
	12 Fiduciary's portion of depreciation (Schedule A) and depletion. Explain depletion		
	13 Charitable deduction (line 9, Schedule B)	20,000	
	14 Other deductions (itemize)		
	15 Total (lines 10 to 14, inclusive)		20,000
	16 Line 9 minus line 15 (Complex trusts and estates enter this amount on line 1 in Schedule C also)		80,000
	17 Deduction for distributions to beneficiaries	60,000	
	18 Adjustment of dividend exclusion		
	19 Federal estate tax attributable to income in respect of a decedent (Fiduciary's share)		
	20 Long-term capital gain deduction. Enter 50% of line 13(e), Schedule D, Form 1041	20,000	
	21 Exemption		
	22 Total (lines 17 to 21, inclusive)		80,000
	23 Taxable income of fiduciary (line 16 minus line 22)		0
COMPUTATION OF TAX	24 Tax on amount on line 23 (See tax rate schedule)		
	25 If alternative tax is applicable, enter the tax from line 22, Schedule D, Form 1041		
	26 Tax surcharge (See instruction 26)		
	27 Total (line 24 or line 25, whichever is applicable, and line 26)		
	28 Fiduciary's share of foreign tax credit (Attach Form 1116)		
	29 Fiduciary's share of investment credit (Attach Form 3468)		
	30 Total (lines 28 and 29)		
	31 Balance (line 27 less line 30)		
	32 Tax from recomputing fiduciary's share of prior year investment credit (Attach statement)		
	33 Total (lines 31 and 32)		
	34 Fiduciary's share of credit for tax paid at source on tax-free covenant bond interest		
	35 Credit for nonhighway Federal gasoline tax and lubricating oil (Attach Form 4136)		
	36 Credit for regulated investment companies (Attach Form 2439)		
	37 Tax previously paid or withheld (Attach explanation)		
	38 Total (lines 34 to 37, inclusive)		
	39 Balance of tax due (line 33 less line 38)		
	40 Overpayment (line 38 less line 33)		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here ▶ _____ Signature of fiduciary or officer representing fiduciary — Date

▶ _____ Signature of preparer other than fiduciary — Address — Date

☆☆☆☆ U.S. GOVERNMENT PRINTING OFFICE : 1968—O-290-018

EXHIBIT A

Schedule A.—DEPRECIATION— Taxpayers using Revenue Procedures 62-21 and 65-13: Make no entry in column 2, enter the cost or other basis of assets held at end of year in column 3, and enter the accumulated depreciation at end of year in column 4.

1. Group and guideline class or description of property	2. Date acquired	3. Cost or other basis	4. Depreciation allowed or allowable in prior years	5. Method of computing depreciation	6. Life or rate	7. Depreciation for this year
1 Total additional first-year depreciation—estates only (do not include in items below) →						
2 Totals						
3 Less amount of depreciation claimed elsewhere on return						
4 Balance (line 2 less line 3)						
5 Fiduciary's portion of line 4. Enter here and on line 12, page 1						

Schedule B.—CHARITABLE DEDUCTION— (Attach statement giving name and address of charitable organization.)

1 Amounts paid or permanently set aside for charitable purposes from current year's income			40,000
2 Tax-exempt interest allocable to charitable distribution			
(Complete lines 3 and 4 below only if gain on line 11, column 2, Schedule D, Form 1041, exceeds loss on line 10, column 2, Schedule D, Form 1041)			
3 (a) Long-term capital gain included on line 1 (Do not complete lines (b) and (c) if such amounts are greater than line (a))	40,000		
(b) Enter gain on line 11, column 2, Schedule D, Form 1041, minus loss on line 10, column 2, Schedule D, Form 1041	40,000		
(c) Enter gain on line 11, column 3, Schedule D, Form 1041, minus loss on line 10, column 3, Schedule D, Form 1041	100,000	20,000	
4 Enter 50% of the smallest of line 3(a), line 3(b), or line 3(c)			20,000
5 Enter sum of line 2 and line 4			20,000
6 Balance (line 1 minus line 5)			
7 Enter short-term capital gains and 50% of the long-term capital gains of the current taxable year allocable to corpus, paid or permanently set aside for charitable purposes			
8 Amounts paid or permanently set aside for charitable purposes other than from income of the current year			
9 Total (line 6 plus lines 7 and 8). Enter here and on line 13, page 1			20,000

Schedule C.—DISTRIBUTABLE NET INCOME AND DISTRIBUTIONS DEDUCTION

1 Enter amount from line 16, page 1	80,000
2 Add: (a) Tax-exempt interest (as adjusted)	
(b) Net gain shown on line 12, column 1, Schedule D, Form 1041. If net loss, enter zero	60,000
(c) Lines 4 and 7, Schedule B	20,000
(d) Short-term capital gain included on line 1, Schedule B	
(e) If amount on line 6, page 1, is a loss, enter amount here	
3 Total (line 1 through line 2(e))	160,000
4 If amount on line 6, page 1, is a gain, enter amount here	100,000
5 Distributable net income (line 3 minus line 4)	60,000
6 Amount of income required to be distributed currently	60,000
7 Other amounts paid, credited, or otherwise required to be distributed	
8 Total (lines 6 and 7)	60,000
9 Enter the total of tax-exempt income included on lines 6 and 7	
10 Balance (line 8 minus line 9)	60,000
11 Enter distributable net income (line 5, above)	60,000
12 Enter the amount from line 2(a), above	
13 Balance (line 11 minus line 12)	60,000
14 Distributions deduction. Enter here and on line 17, page 1, the lesser of line 10 or line 13 above	60,000

1 Date trust was created or, if an estate, date of decedent's death. _____

2 If return is for an estate, has a United States Estate Tax Return been filed? ☐ Yes ☐ No. If "No," will return be filed? ☐ Yes ☐ No ☐ Uncertain.

3 If you had tax-exempt income, have you deducted only that portion of expenses allocable to taxable income? ☐ Yes ☐ No.

4 Has final distribution of assets been made during the year? ☐ Yes ☐ No.

5 If the estate or trust received income from a nominee, state name, employer identification number, and address of nominee.

_____

_____

_____

16—68231-1

☆☆☆☆ U.S. GOVERNMENT PRINTING OFFICE : 1968—O-290-018

SCHEDULE D (Form 1041)
U.S. Treasury Department
Internal Revenue Service

Gains and Losses From Sales or Exchanges of Property

1968

Name of estate or trust

Part I—CAPITAL ASSETS—Short-Term Capital Gains and Losses—Assets Held Not More Than 6 Months

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1						

2 Enter your share of net short-term gain (or loss) from partnerships and other fiduciaries . . . . .
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement) . . . . .
4 Net short-term gain (or loss) from lines 1, 2, and 3. Enter here and on line 10 below . . . . .

Long-Term Capital Gains and Losses—Assets Held More Than 6 Months

5						100,000

6 Enter the full amount of your share of net long-term gain (or loss) from partnerships, other fiduciaries, etc. . . . .
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement) . . . . .
8 Capital gain dividends . . . . .
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8. Enter here and on line 11 below 100,000

CAPITAL GAINS AND LOSSES

	1. Beneficiaries	2. Fiduciary	3. Total
10 Net short-term gain or loss from line 4, above			
11 Net long-term gain or loss from line 9, above	60,000	40,000	100,000
12 Total net gain or loss	60,000	40,000	100,000

Enter on line 6, page 1, Form 1041, the net gain shown on line 12, column 3, above. If net loss on line 12, column 3, above, enter as loss on line 6, page 1, Form 1041, whichever of the following is the smallest amount: (i) the amount of the loss, (ii) taxable income computed without regard to capital gains and losses and the deduction for exemption, or (iii) $1,000.

COMPUTATION OF FIDUCIARY'S CAPITAL GAINS DEDUCTION

13(a) Long-term capital gain shown on line 11, column 3, above	100,000
(b) Short-term capital loss shown on line 10, column 3, above	
(c) Excess of line 13(a) over line 13(b), above	100,000
(d) Long-term capital gains taxable to beneficiaries	60,000
(e) Balance (line 13(c) minus line 13(d)). (Enter 50% of this amount on line 20, page 1, Form 1041.) . . .	40,000

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—Assets Held More Than 6 Months—Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale
14				

f. Depreciation allowed (or allowable) since acquisition		g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) — OR — (see instructions)	j. Other gain (h less i)
f-1. Prior to January 1, 1962 — OR — Prior to January 1, 1964	f-2. After December 31, 1961 — OR — After December 31, 1963				

15 Total ordinary gain. Enter here and in column g, line 23, Part III . . . . .
16 Total other gain. Enter here and in column g, line 5, Part I; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property, enter the total of column j in column g, line 23, Part III . . . . .

16—60113-1

COMPUTATION OF ALTERNATIVE TAX

If fiduciary had a net long-term capital gain or an excess of net long-term capital gain over net short-term capital loss shown in column 2, line 12, and line 23, page 1, Form 1041, exceeds $26,000, it may be to his advantage to make the alternative tax computation.

17 Amount from line 23, page 1, Form 1041	~~0~~
18 50% of amount on line 13(e)	20,000
19 Balance (line 17 minus line 18)	~~0~~
20 Tax on amount on line 19 (see tax rate schedule)	~~0~~
21 50% of amount on line 18, above	10,000
22 Alternative tax (line 20 plus line 21); if less than line 24, page 1, Form 1041, enter this amount on line 25, page 1, Form 1041	10,000

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
23						

24 Net gain (or loss). Enter here and on line 7, page 1, Form 1041 . . . . .

INSTRUCTIONS
(References are to the Internal Revenue Code)

Gains and losses from sales and exchanges of capital assets and other property.—In computing gross income no distinction is made between gains and losses allocable to income account and those allocable to corpus account.

"Capital assets" defined.—The term "capital assets" means property held by the estate or trust (whether or not connected with the trade or business) but does NOT include—

(*a*) stock in trade or other property of a kind properly includible in inventory if on hand at the close of the taxable year;

(*b*) property held by the taxpayer primarily for sale to customers in the ordinary course of trade or business;

(*c*) property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 167;

(*d*) real property used in the trade or business of the taxpayer;

(*e*) certain government obligations issued on or after March 1, 1941, at a discount, payable without interest and maturing at a fixed date not exceeding one year from date of issue;

(*f*) certain copyrights, literary, musical, or artistic compositions, etc.; or

(*g*) accounts and notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property referred to in (*a*) or (*b*) above.

Gains and losses from transactions described in section 1231 (see below) shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the total of these gains exceeds the total of these losses. If the total of these gains does not exceed the total of these losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets. Thus, in the event of a net gain, all these transactions should be entered in the "long-term capital gains and losses" portion of Schedule D. In the event of a net loss, all these transactions should be entered in the "property other than capital assets" portion of Schedule D, or in other applicable schedules on Form 1041.

Section 1231 deals with gains and losses arising from—

(*a*) sale, exchange, or involuntary conversion, of land (including in certain cases unharvested crops sold with the land) and depreciable property if they are used in the trade or business and held for more than 6 months,

(*b*) sale, exchange, or involuntary conversion of livestock (but not including poultry) held for draft, breeding, or dairy purposes and held for 1 year or more,

(*c*) the cutting of timber or the disposal of timber, coal, or domestic iron ore to which section 631 applies, and

(*d*) the involuntary conversion of capital assets held more than 6 months.

See sections 1231 and 631 for specific conditions applicable.

Gain from disposition of depreciable property under sections 1245 and 1250—Assets held more than 6 months (Part II).—(Report any gain from such property held for 6 months or less in Part III.) Except as provided below, section 1245 property means depreciable (*a*) personal property (other than livestock) including intangible personal property; and (*b*) tangible real property (except for buildings and their structural components) if used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or used as a research or storage facility in connection with these activities; and (*c*) elevators and escalators.

Except as provided below, section 1250 property means depreciable real property (other than section 1245 property).

See sections 1245 (b) and 1250 (d) for exceptions and limitations involving: (*a*) disposition by gift; (*b*) transfers at death; (*c*) certain tax-free transactions; (*d*) like kind exchanges, involuntary conversions; (*e*) sales or exchanges to effectuate FCC policies and exchanges to comply with S.E.C. orders; (*f*) property distributed by a partnership to a partner; and (*g*) disposition of principal residence (section 1250 only).

Column f of Part II.—In computing depreciation allowed or allowable for elevators or escalators, enter in column f-1 depreciation prior to July 1, 1963, and in column f-2 depreciation after June 30, 1963.

Column i of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f-2. If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or (2) column f-2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month the property was held in excess of 20 months. Where substantial improvements have been made within the preceding 10 years, see section 1250 (*f*).

(Instructions continued on reverse of duplicate)

18—60113-1

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COMPUTATION OF ALTERNATIVE TAX

If fiduciary had a net long-term capital gain or an excess of net long-term capital gain over net short-term capital loss shown in column 2, line 12, and line 23, page 1, Form 1041, exceeds $26,000, it may be to his advantage to make the alternative tax computation.

17 Amount from line 23, page 1, Form 1041	
18 50% of amount on line 13(e)	
19 Balance (line 17 minus line 18)	
20 Tax on amount on line 19 (see tax rate schedule)	
21 50% of amount on line 18, above	
22 Alternative tax (line 20 plus line 21); if less than line 24, page 1, Form 1041, enter this amount on line 25, page 1, Form 1041	

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
23						
24 Net gain (or loss). Enter here and on line 7, page 1, Form 1041						

INSTRUCTIONS—(Continued from reverse side of the original)

Basis.—In determining gain or loss for property acquired after February 28, 1913, use cost, except where property was acquired by bequest, gift, tax-free exchange, involuntary conversion, or wash sale of stock. See sections 1014, 1015, 1031, 1033, and 1091, respectively. If the amount shown as the basis is other than actual cash cost of the property sold or exchanged, full details must be furnished regarding the acquisition of the property.

Limitation on allowable capital losses.—If the sum of all the capital losses exceeds the sum of all the capital gains (all such gains and losses to be taken into account at 100 percent), then such capital losses shall be allowed as a deduction only to the extent of (1) current year capital gains plus (2) the smaller of either the taxable income of the current year or $1,000. For this purpose taxable income is computed without regard to capital gains or losses or the deduction for exemption. The excess of such allowable losses over the sum of items (1) and (2) above is called "capital loss carryover." Any such carryover loss may be carried forward indefinitely. Capital losses retain their character as either short-term or long-term when carried over to the succeeding year. To the extent the net capital losses are deducted from ordinary income, the net short-term capital loss must be considered as deducted first.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (*a*) members of a family, (*b*) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (*c*) a grantor and fiduciary of any trust, (*d*) a fiduciary and a beneficiary of the same trust, (*e*) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor; or (*f*) an individual and a tax-exempt orgnization controlled by the individual or his family.

Redemption of stock to pay death taxes.—Section 303 deals with redemption of stock (to pay death taxes and certain expenses) included in an estate. List and identify such stock in the appropriate section and state the name of the decedent and the District Director's office in which the estate tax return was filed.

Allocation of capital gains and losses.—On line 10, enter in column 1 the amount of short-term gain or loss allocable to the beneficiary or beneficiaries. This includes (*a*) any amount (whether or not paid, credited, or required to be distributed to beneficiaries) which is a short-term capital gain under the Internal Revenue Code but which is an item of trust income under the terms of the governing instrument and local law, and (*b*) any amount which is a short-term capital gain under the Internal Revenue Code and which is allocable to corpus under the terms of the governing instrument and local law, but which is, nevertheless, paid, credited, or required to be distributed to any beneficiary. However, any capital gains paid, or permanently set aside for the purpose specified in section 642 (c) should be entered in column 2.

Include on line 10, column 1, only those short-term capital losses which are taken into account in determining the amount of gain from the sale or exchange of capital assets which is paid, credited, or required to be distributed to any beneficiary during the taxable year. Enter in column 2 the amount of the short-term gain or loss allocable to the fiduciary. The amount in column 3 should be the same as the amount shown on line 4.

The long-term gain or loss is treated on line 11 just as short-term gain or loss is treated on line 10.

Fiduciary's capital gains deduction.—Section 1202 provides a special rule for the deduction for long-term capital gains of an estate or trust. The deduction is computed by excluding that portion of the gains from sales or exchanges of capital assets which is includible in the income of the beneficiaries. Lines 13 (*a*) through 13 (*e*) provide for the computation of long-term capital gains allocable to the fiduciary for the purpose of computing this deduction.

Capital gains dividends and undistributed capital gains of regulated investment companies.—Report in Schedule D, as long-term capital gains, any amount which a regulated investment company advises you is (a) a capital gain dividend, or (b) your share of the company's undistributed capital gains. Credit should be claimed on line 36, page 1, Form 1041, for 25 percent of (b), since such amount represents the tax imposed on a regulated investment company's undistributed capital gains which is deemed paid by the shareholders. Copy B of Form 2439 should be attached to page 1 of the fiduciary return to substantiate the credit. See section 852 and the regulations thereunder.

If the fiduciary makes a distribution to beneficiaries with respect to an "undistributed capital gain" it shall be treated by the fiduciary, and included in income of the beneficiaries, in the same manner as if the distribution to the beneficiaries resulted from a cash distribution by the regulated investment company.

16—90519-1

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1968 Instructions for Form 1041

1968 U.S. Fiduciary Income Tax Return

(References are to the Internal Revenue Code, unless otherwise noted)

General instructions

A. Requirement of return.—Fiduciaries are required to file Form 1041 for:

(1) domestic estates with (a) gross income for the taxable year of $600 or over, or (b) any beneficiary who is a nonresident alien; and

(2) domestic trusts with (a) any taxable income for the taxable year, or (b) gross income of $600 or over regardless of the amount of taxable income, or (c) any beneficiary who is a nonresident alien.

B. Employer identification number.—Application for the employer identification number for the estate or trust must be made on Form SS–4, Application for Employer Identification Number. Form SS–4 may be obtained from any District Director of Internal Revenue or any district office of the Social Security Administration. Form SS–4 must be filed with the District Director of Internal Revenue for the district in which the fiduciary resides or has his principal place of business in sufficient time for the number to be issued before the Form 1041 is filed.

C. Other returns required of fiduciaries.—(1) *Forms 1040 and 1040–A.*—For last taxable year of decedent if gross income to date of death was $600 or more ($1,200, if age 65 or over). A fiduciary for a minor or an insane person must also file a return.

(2) *Form 1040NR.*—Nonresident alien beneficiaries, estates and trusts.

(3) *Form 1042.*—Income tax withheld at source on payments to nonresident aliens.

(4) *Forms 1096 and 1099.*—Certain payments of $600 or more made by estate or trust engaged in a trade or business.

D. Period to be covered by return.—Returns must be filed for the calendar year 1968 or fiscal year beginning in 1968. If return is filed for other than a calendar year, fill in the taxable year space at top of return. If this is the last return the taxpayer is required to file, write "FINAL RETURN" at the top of the form.

E. Time and place for filing return.—Returns must be filed, on or before the 15th day of the 4th month following the close of the taxable year of the estate or trust, with the District Director of Internal Revenue for the district in which the fiduciary resides or has his principal place of business **EXCEPT AS PROVIDED BELOW.** If the exception applies, the return must be filed with the Internal Revenue Service Center specified.

FIDUCIARIES IN SOUTHEAST REGION FILING IN 1969 OR LATER—

Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee	Internal Revenue Service Center 4800 Buford Highway Chamblee, Ga. 30006

FIDUCIARIES IN THE FOLLOWING REGIONS FILING IN 1970 OR LATER—

MID-ATLANTIC REGION

Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia	Internal Revenue Service Center 11601 Roosevelt Boulevard Philadelphia, Pa. 19155

CENTRAL REGION

Indiana, Kentucky, Michigan, Ohio, West Virginia	Internal Revenue Service Center Cincinnati, Ohio 45298

SOUTHWEST REGION

Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Wyoming	Internal Revenue Service Center 3651 Interregional Highway Austin, Tex. 78740

WESTERN REGION

Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington	Internal Revenue Service Center 1160 West 1200 South St. Ogden, Utah 84405

F. Signature and verification.—The return must be signed by the individual fiduciary, or by the authorized officer of the organization receiving or having custody or control and management of the income of the estate or trust.

The return must also be signed by the person, or in the name of the firm or corporation preparing the fiduciary's return for compensation. This verification is not required if the return is prepared by a regular full-time employee of the fiduciary.

G. Payment of tax.—The tax of a trust must be paid in full when the return is filed. The tax of an estate must be paid in full when the return is filed or in four equal installments on or before the 15th day of the 4th, 7th, 10th, and 13th months following the close of the taxable year.

The tax may be paid in cash or by check or money order drawn to the order of "Internal Revenue Service." Please enter the employer identification number on all remittances.

H. Copy of governing instrument and fiduciary's declaration.—If the gross income of the estate or trust is $5,000 or over, a copy of the will or trust instrument accompanied by the written declaration of the fiduciary under the penalties of perjury that it is a true and complete copy must be filed with the return of the estate or trust.

The fiduciary must also file with the return his statement indicating the provisions of the governing instrument which in his opinion determine the extent to which the income of the estate or trust is taxable to the estate or trust, to the beneficiaries, or to the grantor or a person other than the grantor. In making such determination, the fiduciary must give particular attention to sections 671 through 678 which relate (*a*) to taxation of the income of a trust to the grantor because of his retention or possession of (i) a reversionary interest, (ii) a power to revoke or to control beneficial enjoyment, (iii) administrative powers, or (iv) the right to income, and (*b*) to taxation of the income of a trust to a person other than the

US Treasury Department **Internal Revenue Service**

grantor because of the possession of such power over the trust as would constitute such a person the substantial owner of all or a portion of the trust.

If a copy of the governing instrument and the statement of the fiduciary have once been filed with a return, they need not again be filed, provided subsequent returns contain a statement showing when and where such documents were filed. However, if the instrument is amended in any way after a copy has been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment is made. The fiduciary must also file his statement indicating the effect, if any, in his opinion, of such amendment on the extent to which the income of the trust is taxable to the trust, the beneficiaries, or to the grantor or a person other than the grantor.

I. Accounting period. — To change your accounting period, see section 1.442–1 of the regulations and Form 1128, Application for Change in Accounting Period.

J. Accounting methods. — Taxable income must be computed using the method of accounting regularly used by the taxpayer in maintaining its books and records. In all cases the method adopted must clearly reflect taxable income. (See section 446.) Unless the law specifically permits, a taxpayer may not change the method of accounting used to report income in prior years (for income as a whole or for any material item) without first securing consent on Form 3115, Application for Change in Accounting Method.

Rounding off to whole-dollar amounts. The money items on your return and accompanying schedules may be shown as whole-dollar amounts by eliminating any amount less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

K. Income of decedents and deduction for Federal estate tax.—Section 691 provides for the inclusion, when received, in gross income of an estate or trust of amounts of gross income which, although attributable to the decedent, were not properly includible in his return for any period up to the date of his death. This includes income from installment obligations. The same section allows deductions for business expenses, interest, taxes, depletion, etc., and foreign tax credits to the estate or other person receiving the property to which the deduction or credit pertains.

Federal estate tax previously paid, which was attributable to the inclusion in a decedent's gross estate of the right to receive items of income treated as income in respect of a decedent and includible in gross income on the fiduciary return, is allowable as a deduction either to the fiduciary or to the beneficiaries, depending on whether or not such income is paid, credited, or required to be distributed. The fiduciary is entitled to deduct only the portion of the estate tax attributable to such income, which was not (during the taxable year in which received) paid, credited, or required to be distributed to a beneficiary. See the regulations under section 691 for further information on the computation of the deduction. The amount allowable to the fiduciary should be deducted on line 19, page 1 of the return. Any deductions in this connection to which beneficiaries are entitled must be shown on line 7 of Schedule E (Form 1041), or the fiduciary's acceptable substitute.

L. Final return.—If final distribution of assets has been made during the year, all income of the estate or trust must be entered as distributed to the beneficiaries and no deduction is allowable for exemption.

M. Unused loss carryover and excess deductions on termination.—On final termination of an estate or trust there are certain types of deductions which may be passed on to beneficiaries. If a net operating loss carryover under section 172, or a capital loss carryover under section 1212, would be allowable in a subsequent year if the estate or trust had not terminated, such carryover is allowable to the beneficiares succeeding to the property of the estate or trust. If for its final taxable year, the estate or trust is entitled to deductions (other than deductions for exemption and charitable deduction) in excess of its gross income, the excess deductions are allowable to such beneficiaries. See the regulations under section 642 for the methods of computing these deductions. If beneficiaries of an estate or trust are entitled to any of these deductions, the fiduciary must attach to the return a schedule showing the computation of each type of deduction and the allocation to beneficiaries. The type of deduction and the amount allocable to each beneficiary must also be shown on line 7 of Schedule E (Form 1041), or the fiduciary's acceptable substitute.

N. Income taxable to the grantor or substantial owner.—If any part of the income of the trust is taxable to the grantor under any of sections 673 through 677, or is taxable to another person under section 678, such part must not be reported on Form 1041; rather, such income and the deductions and credits applicable thereto must be shown in a separate statement to be attached to Form 1041.

O. Simple and complex trusts.—If the terms of the governing instrument of a trust require that all of its income (determined under the governing instrument and local law) be distributed currently and do not provide that any amounts may be paid, permanently set aside, or used in the taxable year for the charitable purposes specified in section 642(c), such a trust may quallify as a "simple" trust under section 651(a). Such a trust is qualified under section 651(a) only in those taxable years of the trust in which it does not distribute to a beneficiary amounts other than amounts of income (determined under the governing instrument and local law) required to be distributed currently. Section 651(a) is not applicable to estates.

Any trust which does not qualify for the taxable year under section 651(a) is treated as a "complex" trust under section 661(a). All estates are treated under section 661(a) in the same manner as "complex" trusts.

P. Completion of return.—The specific instructions explain how all estates and trusts should complete the lines on the form. However, since Schedules B and C of the return are necessary only for estates and complex trusts, the instructions relating to those schedules may be disregarded by simple trusts. Generally the same is also true as to Schedule D (Form 1041) in the case of simple trusts reporting no gains and losses from sales and exchanges of capital assets and other property. Schedule E (Form 1041), or the fiduciary's acceptable substitute, must be filed with Form 1041 for each beneficiary.

Q. Certain dividends received by simple trusts.—An exception to the instructions applies in the case of a simple trust receiving extraordinary dividends or taxable stock dividends, or both, which the trustee, acting in good faith, does not pay or credit to any beneficiary because of his determination that they are allocable to corpus under the terms of the governing instrument and local law. The law provides that such items must be excluded from distributable net income. If line 1, page 1 of the return includes any dividends so treated, they must be excluded from the amount on line 17 and from Schedule E (Form 1041), or the fiduciary's acceptable substitute, and an explanatory statement must be attached to the return.

R. Short-form method for simple trusts.—The following short-form method of completing the return may be used for simple trusts.

Simple trust without capital gains (or losses)

(a) *Reporting income and deductions.*—Complete lines 1 through 16 in accordance with specific instructions.

(b) *Determining taxable income and tax of fiduciary.*—If the amount shown on line 16 is not more than the amount of income required to be distributed currently (less the tax-exempt income reduced by the allocable expense) enter on line 17 the amount shown on line 16 and enter zero on line 23. Lines 24 through 40 need not be completed.

If the amount shown on line 16 exceeds the amount of income required to be distributed currently less nontaxable income, enter on line 17 the amount of income required to be distributed currently (less the tax-exempt income reduced by the allocable expense) and complete the remainder of page 1.

Simple trust with capital gains (or losses)

The short-form method of completing the return may also be used for a simple trust with capital gains (or losses). However, the capital gains and losses must be reported in Schedule D (Form 1041), and the following additional instructions must be taken into account:

(i) If capital gains are allocable to corpus, enter on line 17 the amount of income other than capital gains required to be distributed currently.

(ii) If capital gains are allocable to income, enter on line 17 the amount of income including capital gains required to be distributed currently.

(iii) If line 6 shows a loss, such loss cannot be carried forward to Schedule E (Form 1041), or the fiduciary's acceptable substitute. Enter on line 17 the amount of income required to be distributed currently without reduction for capital losses.

(iv) If line 7 shows a loss, such loss must be treated as a deduction in computing income required to be distributed currently.

For treatment of capital gains dividends and undistributed capital gains of regulated investment companies, see Schedule D (Form 1041) Instructions.

Specific Instructions—Page 1 of return

The following instructions for this page are numbered to correspond with line numbers on return

Income

1. Dividends.—Enter the total (before dividend exclusion) of all taxable dividends.

So-called "dividends" or "earnings" from the following corporations are considered interest for Federal income tax purposes and must be reported as interest on line 2: mutual savings banks, cooperative banks, domestic building and loan associations, domestic savings and loan associations, and Federal savings and loan associations, on deposits or withdrawable accounts; and Federal credit unions.

For an estate which is a shareholder in a "small business corporation", see specific instruction 8.

Note.—An estate or trust may exclude up to $100 of certain dividend income. However, if all or part of such dividend income is distributed to beneficiaries, the deduction allowed to the fiduciary for distributions to beneficiaries will be reduced by that part of the exclusion that bears the same ratio thereto that the dividends distributed bears to the total dividends received by the estate or trust. This is accomplished in the return by allowing a net exclusion on line 18 which takes into account both the full exclusion and the adjustment to the deduction for distribution to beneficiaries. See specific instruction 18.

2. Interest.—Enter the total of all taxable interest. In addition to the interest described in specific instruction 1, this would include interest on Government obligations, except interest fully exempt from tax, interest on bank deposits, notes, corporate bonds, tax-free covenant bonds upon which a Federal income tax was paid at source, interest received on tax refunds, etc.

A taxpayer on the cash basis may elect, as to all non-interest-bearing obligations issued at a discount and redeemable at fixed amounts increasing at stated intervals (for example, United States savings bonds), to include the increase in redemption price applicable to the current year. For the year of election, the total increase in redemption price of such obligations occurring between the date of acquisition and the end of the year must be included. A taxpayer so electing must report such income as interest on line 2 and attach a statement listing the obligations owned and the computation of accrued income. An election exercised in the current year or in a prior year is binding for all subsequent years.

3. Income from partnerships and other fiduciaries.—The estate's or trust's share of income of the following classes from a partnership

(including a syndicate, pool, etc., not taxable as a corporation) and from another fiduciary must be entered on the appropriate lines:

Dividends,
and
Gains and losses from sale or exchange of capital assets and other property.

The share of all other income or allowable losses from partnerships and other fiduciaries must be entered on line 3.

4. Rents and royalties.—Enter the gross amount of rents and royalties received or accrued. Any deductions claimed for interest, taxes, depreciation or depletion, and repairs must be included on lines 10, 11, 12, and 14, respectively.

5. Profit (or loss) from trade or business.—If the estate or trust was engaged in a trade or business during the taxable year, attach a statement showing the nature of the trade or business, gross profit, deductions, and net income. Enter the gross profit from the business on line 5, and items of other income on other appropriate lines on page 1, according to the character of such income.

The total deductible expenses, other than depreciation, depletion, and charitable contributions must be included in the amount on line 14, page 1. See specific instructions for Schedules A and B for deductions for depreciation, depletion, and charitable contributions.

6 and 7. Sales and exchanges of property.—Gains and losses from the sale or exchange of property must be reported in Schedule D (Form 1041) and the amounts from lines 12 and 24 of Schedule D (Form 1041) carried to lines 6 and 7, respectively, on page 1 of Form 1041. See Schedule D (Form 1041) Instructions.

8. Other income.—Enter the total of all taxable income not reportable elsewhere on page 1, and show the nature of such income, attaching a separate sheet if necessary for that purpose.

Shareholders of "Small Business Corporations."—An estate which is a shareholder of a "small business corporation" which qualifies to have its undistributed taxable income taxed directly to its shareholders (rather than to the corporation) must report its share of both the distributed and undistributed taxable income of the corporation as ordinary income on line 8, page 1, of Form 1041, except that portion which is reportable as a long-term capital gain in Schedule D (Form 1041). Neither type of income is eligible for the dividend exclusion.

Deductions

10. Interest. — Enter deductible interest paid or accrued, other than on business indebtedness (which must be treated according to specific instruction 5). Do not include interest on indebtedness incurred or continued to purchase or carry obligations which yield interest exempt from tax. For disallowance of unpaid interest due related persons, see section 267.

11. Taxes. — Enter deductible taxes paid or accrued during the taxable year by the estate or trust. Some non-Federal taxes are deductible. Federal import duties, and Federal excise and stamp taxes are deductible only if paid or incurred in carrying on a trade or business or in the production or collection of income or in the management, conservation or maintenance of property held for the production of income. However, if they are deductible as a business expense, such taxes and other taxes on property used in the trade or business are to be treated in accordance with specific instruction 5. The following taxes are not deductible: (i) generally, taxes assessed against local benefits of a kind tending to increase the value of the property assessed; (ii) Federal income taxes; (iii) estate, inheritance, succession, or gift taxes, except as noted in the next paragraph relative to Federal estate taxes; (iv) taxes imposed upon the interest of an estate or trust as a shareholder of a corporation which are paid by the corporation without reimbursement from the estate or trust; and (v) any portion of income, war profits or excess profits taxes paid or accrued to a foreign country or United States possession if any credit is claimed on line 28, page 1.

Section 691 provides that a taxpayer required to include in gross income any amount in respect of a decedent may deduct that portion of the Federal estate tax on the decedent's estate which is attributable to the inclusion in the decedent's estate of the right to receive such amount. If an estate or trust receives income in respect of a decedent which is paid, credited, or required to be distributed to a beneficiary, see section 691(c) (1)(B).

12. Fiduciary's portion of depreciation and depletion.—See specific instructions for Schedule A.

13. Charitable deduction.—See specific instructions for Schedule B.

14. Other deductions.—Itemize all authorized deductions not deductible elsewhere on page 1, attaching a separate sheet if necessary. Examples of such deductions are:

Nontrade or nonbusiness expenses.—Include expenses incurred either (*a*) for the production or collection of taxable income, (*b*) for the management, conservation, or maintenance of property held for the production of taxable income, or (*c*) in connection with the determination, collection, or refund of any tax. Losses on worthless bonds and similar obligations, and nonbusiness bad debts must be included in Schedule D (Form 1041) as losses on capital assets.

Deductions which may be allowable for estate tax purposes.—*Note:* Funeral, medical and dental expenses are never deductible in determining the income tax of an estate.

Sections 2053 and 2054 (deductions for estate tax purposes) provide for the deduction from the gross estate of certain expenses and losses which are also deductible in computing the taxable income of the estate or trust. No such deductions are allowable in computing the taxable income of an estate or trust unless there is filed for association with the return in which the items are claimed as deductions, a statement in duplicate to the effect that the items have not been allowed as deductions from the gross estate of the decedent under the applicable Federal estate tax law and that all rights to have such items allowed at any time as deductions under the applicable Federal estate tax law are waived. Clearly identify any such items in the statement and waiver. This paragraph does not apply with respect to deductions allowed under section 691, relating to income in respect of a decedent.

Bond premium.—Section 171 provides for amortization of bond premium. In the case of taxable bonds the amortization of premium is elective. For estates and trusts the election may be made only by the fiduciary. On tax-exempt bonds such amortization is mandatory, but no deduction from income is allowable.

On taxable bonds acquired after December 31, 1957, the premium must be amortized to maturity or to the earliest call date, whichever results in the smaller amount of amortization for the period to the earliest call date. On taxable bonds acquired before January 1, 1958, but after January 22, 1954, if they were issued after January 22, 1951, and have a call date not more than 3 years after the date of issue, the premium must be amortized to maturity. On other bonds the premium may be amortized to maturity, or to the date on which first callable. Attach a statement showing computation of deduction.

The basis of tax-exempt bonds must be reduced by amortization of premium. In the case of taxable bonds, the basis must be reduced if an election has been made to amortize.

Nonbusiness casualty losses.—The amount of loss to be deducted is measured by the fair market value of the property just before the casualty less its fair market value immediately after the casualty (but not more than the cost or adjusted basis of the property), reduced by any insurance or compensation received and limited to the amount in excess of $100 for each loss.

Net operating loss deduction.—The net operating loss allowed by section 172 is subject to the exceptions and limitations contained in section 1.642(d)–1 of the regulations governing substantial owners and charitable and distribution deductions. Every taxpayer claiming a net operating loss deduction must file with the return a detailed statement showing the computation thereof.

Unallowable deductions.—No deductions are allowable (*a*) for expenses which are allocable to one or more classes of income (other than interest income) exempt from tax, or (*b*) for any amount relating to expenses for production of income which is allocable to interest income exempt from tax. For the treatment of interest expense attributable to tax-exempt income, see specific instruction 10. For the determination of the amount of expense attributable to tax-exempt income, see specific instructions for Schedule C.

For the disallowance of unpaid expenses due related persons see section 267.

17. Deduction for distributions to beneficiaries.—See general instruction R for the "short-form method" for simple trusts to complete their returns and specific instructions for Schedule C, Schedule E (Form 1041), or the fiduciary's acceptable substitute, must be filed with Form 1041 for each beneficiary.

18. Dividend exclusion. — Enter the lesser of (i) the first $100 (or less) of dividends received from domestic corporations during the taxable year, or (ii) the amount of (i) reduced by an amount which bears the same ratio thereto that the total dividends allocated to beneficiaries bears to the amount on line 1, page 1 of Form 1041. See section 116 and specific instruction 1. This exclusion does not apply to dividends received from: (*a*) China Trade Act corporations; (*b*) so-called exempt organizations (charitable, fraternal, etc.) and farmers' cooperative organizations; (*c*) regulated investment companies, except to the extent that such dividends are designated by the company as dividends for these purposes; (*d*) corporations to which section 931 (relating to income from sources within possessions of the United States) applies; or (*e*) real estate investment trusts.

19. Federal estate tax. — See general instruction K.

21. Deduction for exemption.—An estate is allowed a deduction of $600. A trust which, under its governing instrument, is required to distribute all of its income currently, is allowed a deduction of $300; all other trusts are allowed a deduction of $100.

Note.—If final distribution of assets has been made during the year, all income of the estate or trust must be entered as distributed to beneficiaries and no deduction is allowable for exemption.

24. Tax rate schedule. — The amount of the tax must be determined in accordance with the following rate schedule:

If line 23, page 1, is:			*Enter on line 24, page 1:*
Not over $500			14% of the amount on line 23
Over—	But not over—		of excess over—
$500	—$1,000	$70, plus 15%	—$500
$1,000	—$1,500	$145, plus 16%	—$1,000
$1,500	—$2,000	$225, plus 17%	—$1,500
$2,000	—$4,000	$310, plus 19%	—$2,000
$4,000	—$6,000	$690, plus 22%	—$4,000
$6,000	—$8,000	$1,130, plus 25%	—$6,000
$8,000	—$10,000	$1,630, plus 28%	—$8,000
$10,000	—$12,000	$2,190, plus 32%	—$10,000
$12,000	—$14,000	$2,830, plus 36%	—$12,000
$14,000	—$16,000	$3,550, plus 39%	—$14,000
$16,000	—$18,000	$4,330, plus 42%	—$16,000
$18,000	—$20,000	$5,170, plus 45%	—$18,000
$20,000	—$22,000	$6,070, plus 48%	—$20,000
$22,000	—$26,000	$7,030, plus 50%	—$22,000
$26,000	—$32,000	$9,030, plus 53%	—$26,000
$32,000	—$38,000	$12,210, plus 55%	—$32,000
$38,000	—$44,000	$15,510, plus 58%	—$38,000
$44,000	—$50,000	$18,990, plus 60%	—$44,000
$50,000	—$60,000	$22,590, plus 62%	—$50,000
$60,000	—$70,000	$28,790, plus 64%	—$60,000
$70,000	—$80,000	$35,190, plus 66%	—$70,900
$80,000	—$90,000	$41,790, plus 68%	—$80,000
$90,000	—$100,000	$48,590, plus 69%	—$90,000
$100,000		$55,490, plus 70%	—$100,000

26. Tax surcharge.—For calendar year 1968 returns, enter 7.5% of line 24 or line 25 whichever is applicable. For fiscal year 1968–69 returns, enter 10% of line 24 or line 25 whichever is applicable times the number of days in the taxable year after March 31, 1968, and before July 1, 1969, and divided by the number of days in the entire taxable year.

28. Foreign tax credit.—If credit is claimed under section 901 for income or profits taxes paid to a foreign country or to a possession of the United States, submit Form 1116 with the return. The allowable credit is equal to the total credit shown on Form 1116 minus the proportionate share of the credit allocable to the beneficiaries.

29. Investment credit.—An estate or trust is allowed a credit for its share of the investment in certain depreciable property having an estimated useful life of 4 years or more. The investment is apportioned between the estate or trust and the beneficiaries on the basis of the income allocable to each. To support the investment credit claimed by the estate or trust, attach Form 3468, Computation of Investment Credit,

to Form 1041. Only the portion of the investment allocable to the estate or trust should be shown on Form 3468. See the instructions on the reverse of Form 3468 for the limitation and other information on the credit. If distributions are made to the beneficiaries, attach a schedule showing: (a) each beneficiary's allocable share of the basis of new property and the "life years" assigned to the property including investment in suspension period property; and (b) each beneficiary's allocable share of the cost of used property and the "life years" assigned to the used property including investment in suspension period property.

32. Tax from recomputing fiduciary's share of prior year investment credit.—Where property is disposed of prior to the life used in computing the investment credit, the tax for the year in which the property is so disposed of must be increased by the difference between the credit taken on such property and the credit which would have been allowed had the actual life been used. If the investment of a prior year was apportioned between the estate or trust and the beneficiaries, such increase must be similarly apportioned.

35. Credit for nonhighway Federal gasoline tax and lubricating oil.—If credit is claimed under section 39 of the Code for Federal tax paid on gasoline or lubricating oil used for nonhighway or other purposes described therein, attach Form 4136 to substantiate the credit. To obtain this credit your return must be timely filed (including any extensions).

36. Credit from regulated investment companies.—If credit from regulated investment companies is claimed, see Schedule D (Form 1041) Instructions and attach copy B of Form 2439.

37. Tax previously paid or withheld.—Enter such items as tax paid on a tentative return and withholding taxes on wages and salaries of a decedent which are received by the fiduciary. Attach an explanation to the return.

Page 2 of return

Schedule A. — Depreciation. — This schedule relates to the deduction for depreciation under section 167. Also see Revenue Procedure 62–21 (supplemented by Revenue Procedure 65–13) for alternative guideline lives and administrative procedures. If a deduction for depletion is claimed (see sections 611 through 614), attach a statement to show the details.

Beneficiaries' and fiduciary's shares of depreciation and depletion deductions.—An estate or trust is allowed the deductions for depreciation and depletion only to the extent that these deductions are not allocable to beneficiaries.

In the case of a trust, the allowable deductions are to be apportioned between the income beneficiaries and the trustee on the basis of the trust income allocable to each, unless the governing instrument (or local law) requires or permits the trustee to maintain a reserve in any amount. If so, the deduction is first allocated to the trustee to the extent that income is set aside for a reserve, and any part of the deduction in excess of the income set aside for the reserve is apportioned between the income beneficiaries and the trustee on the basis of the trust income (in excess of the income set aside for the reserve) allocable to each. In the case of an estate, the allowable deductions for depreciation and depletion are apportioned between the estate and the heirs, legatees, or devisees on the basis of the income of the estate allocable to each.

Enter on line 5 of Schedule E (Form 1041), or the fiduciary's acceptable substitute, the beneficiary's share of depreciation plus depletion shown in the attached statement. Enter on line 12, page 1, Form 1041, fiduciary's share of deprecation shown on line 5 of Schedule A plus his share of depletion shown in the attached statement.

Additional first-year depreciation allowance for estates.—An estate may elect to write off 20 percent of the cost (before adjustment for salvage value) of tangible personal property with a useful life of 6 years or more; up to an aggregate cost of $10,000. Total additional first-year depreciation must be shown on line 1 of the depreciation schedule. The maximum allowance available to an estate is $2,000 reduced by any part of the allowance distributed to any beneficiary. A beneficiary does not take into account the amount of any allowance distributed to him by an estate in determining his personal $10,000 or $20,000 limitation.

Schedule B.—Charitable deduction.—An estate or trust is allowed a deduction for any amount of gross income which pursuant to the terms of the governing instrument is, during the taxable year, paid or permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance or operation of a public cemetery not operated for profit. This deduction is not subject to the percentage limitation imposed by section 170 on the charitable deduction of an individual, but is subject to the limitations described below. For further special limitations in the case of improper accumulations, prohibited transactions, etc., see section 681(b) and (c). A trust claiming a charitable, etc., deduction under section 642 (c) for the taxable year must file the information return required by section 6034 on Form 1041A which may be obtained from the District Director of Internal Revenue.

Contributions attributable to current income.—Enter on line 1, Schedule B, the full amount paid or permanently set aside for the purposes described above out of the current year's income. This does not include capital gains allocable to corpus, but does include capital gains which are treated as income under the governing instrument and local law. Capital gains which are allocable to corpus must be entered on line 7.

Line 2 provides for an adjustment of the charitable contributions attributable to income of the current year (line 1), so that the charitable deduction will not include contributions attributable to tax-exempt interest. In the absence of specific provisions in the governing instrument, enter on line 2 the result obtained by multiplying line 1 by the total of all tax-exempt interest included in income of the current year (under the governing instrument and local law) and dividing by the total of all income items included in income of the current year (under the governing instrument and local law). In computing the total of all items of income under applicable local law, do not reduce income by any losses (such as losses from the sale or exchange of property).

Lines 3 and 4 provide for adjustment of a charitable contribution which includes long-term capital gains allocable to trust income in order to prevent a double deduction under section 1202 for such gains. Enter on line 3(a) the total amount of long-term gain contained in the amount on line 1. This is computed by multiplying the amount shown on line 1 by the total of long-term capital gains allocated to income (under the governing instrument and local law) and dividing the result by the total of all the income items included in income of the current year (under the governing instrument and local law). For purposes of this adjustment, long-term capital gain of the current year allocable to corpus and paid or permanently set aside for a charitable purpose is not included in the contribution to charity out of the current year's income. Such amounts are included on line 7, after a similar adjustment is made.

Contributions not attributable to current income.—Enter on line 7 the total of all net short-term capital gains and 50% of all net long-term capital gains of the taxable year not included on line 1 and which are paid or permanently set aside for the purposes specified in section 170(c) (definitions of charitable contributions) or to be used for the charitable, etc., purposes specified in section 642(c). Enter on line 8 the total of *deductible* amounts paid or permanently set aside for the purpose specified in section 170(c) or to be used for the charitable, etc., purposes specified in section 642(c) to the extent that such amounts are not attributable to income (under the governing instrument and local law) of the current year or capital gains included on line 7. Attach a statement to show the details.

Schedule C.—Distributable net income and distributions deduction.—This schedule provides for the computation of the deduction allowable to the fiduciary for amounts paid, credited, or required to be distributed to the beneficiaries of the estate or trust. The deduction is equal to the amounts paid, credited, or required to be distributed or the distributable net income, whichever is smaller, adjusted in either case so as to exclude items of tax-exempt income entering into distributable net income. Distributable net income is an amount which limits the amount deductible by the estate or trust for distributions and (except in the case of a current income beneficiary of an estate or trust which claims a charitable deduction) the amount taxable to the beneficiary. It is also used to determine the character of the distributions to the beneficiaries.

For the purpose of determining distributable net income in the case of a complex trust, if the shares of different beneficiaries are substantially separate and independent, such shares must be treated under the separate share rule as separate trusts, under certain circumstances. See section 663(c) and the regulations thereunder. If the separate share rule is applicable, a separate Form 1041 (except for lines 17 through 40 on page 1) for each share must be attached to the return, as a supplemental schedule. This procedure is solely for the purpose of determining the deduction for distributions under section 661 and the amounts to be included in gross income of beneficiaries under section 662.

Line 2(a): Enter the amount of tax-exempt interest received, less: (i) the amount of tax-exempt interest shown on line 2 of Schedule B; and (ii) any amounts which, without the provisions of section 265, would be deductible in respect of disbursements, expenses, losses, etc., of the estate or trust, directly or indirectly allocable to such interest. The amount of the indirect disbursements, etc., allocable to tax-exempt interest is that amount which bears the same ratio to the total disbursements, etc., of the estate or trust not directly attributable to other items of income as the total tax-exempt interest received bears to the total of all the items of gross income (including tax-exempt interest) entering into distributable net income.

Line 6: Enter the amount of income of the estate or trust required to be distributed currently to all beneficiaries, whether distributed or not. For the purpose of determining what amounts are to be included on line 6, the question of what are items of income and the question of whether an amount is required to be distributed currently are to be determined under the governing instrument and the applicable local law. If the governing instrument requires that stated amounts be paid to a beneficiary and further provides that such amounts may be paid either out of income or out of corpus, such amounts are to be included on line 6 to the extent they are actually paid out of income of the current year.

Line 7: Except as noted in the two following paragraphs, enter on line 7 other amounts actually paid, credited, or required to be distributed to beneficiaries in the taxable year, whether from income (current or accumulated) or from corpus. Do not include on either line 6 or 7 any amounts deducted in a prior year return which were credited or required to be distributed in such prior year.

Amounts not included.—Do not include on either line 6 or 7 any amount which, under the terms of the governing instrument, is properly paid or credited as a gift or bequest of a specific sum of money or of specific property. To qualify as a gift or bequest excluded from lines 6 and 7, a sum must be paid all at once or in not more than three installments. Furthermore, an amount which can be paid or credited only from the income of the estate or trust is not considered a gift or bequest of a specific sum of money. See section 663(a)(1). Do not include on either line 6 or 7 any amount paid or permanently set aside for the purposes described in section 642(c) or otherwise qualifying for the charitable deduction. See section 663(a)(2).

Elective 65-day rule.—The fiduciaries of certain trusts created before January 1, 1954, who have elected to treat distributions within [illegible] first

65 days of the taxable year of the trust as amounts which were paid or credited on the last day of the preceding taxable year must continue such treatment. See section 663(b).

Line 9: Enter the amount of tax-exempt income included in lines 6 and 7 less the amount of tax-exempt income included in any charitable deduction and less the allocable share of expenses not otherwise allowable on page 1. The allocable share is that portion of expenses not directly allocable to any income as the ratio of tax-exempt income bears to total income.

Separate schedules

Schedule D.—Gains and losses from sales or exchanges of property.—Separate Schedule D (Form 1041) must be filed with Form 1041 to report gains and losses from the sale or exchange of property.

Schedule E.—Beneficiary's share of income, deductions, and credits.—Copy A of separate Schedule E (Form 1041), or the fiduciary's acceptable substitute, must be filed with Form 1041 for each beneficiary.

Schedule J.—Allocation of accumulation distribution.—Separate Schedule J (Form 1041) must be filed with Form 1041 for a complex trust to report an accumulation distribution as defined in section 665 (b) of the Code.

Reconciliation Worksheet.—The worksheet below may be used in the ordinary case to determine if the income reported on all separate Schedules E (Form 1041) is the same amount as the distributions deduction on line 17, page 1, Form 1041. In some cases (certain charitable deductions for example) the amounts may not be the same due to special computations which may be necessary.

If you wish to use the worksheet, add the amounts on line 1 of each separate Schedule E (Form 1041) and enter the total on line 1(a) of the worksheet. Repeat this process for each of the other income lines on Schedule E (Form 1041). Finally, complete the worksheet by adding lines 1(a) through 1(d), and by entering on line 2 the amount of the distributions deduction from line 17, page 1, Form 1041. The amount on line 1(e) of the worksheet should be the same as the amount on line 2.

The worksheet is for optional use and is NOT required to be filed with the return.

Reconciliation Worksheet

1. Total income reported on all separate Schedules E (Form 1041):	
(a) Dividends qualifying for exclusion	
(b) Short-term capital gain	
(c) Long-term capital gain	
(d) Other taxable income	
(e) Total (Lines a through d)	
2. Distributions deduction (Line 17, page 1, Form 1041) (Line 1(e) should equal line 2.)	

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FORM **1041**
U.S. Treasury Department
Internal Revenue Service

U.S. Fiduciary Income Tax Return

for the year January 1–December 31, 1968, or other taxable year
beginning _____, 1968, ending _____, 19__

1968

PLEASE PRINT OR TYPE

Check whether:
☐ Estate
☐ Simple trust
☐ Complex trust

If trust, check whether:
☐ Testamentary
☐ Inter vivos

Name of estate or trust | Employer identification Number

Name and title of fiduciary

Address of fiduciary (number and street)

City, State, and ZIP code

Simple trusts are not required to fill in Schedules B and C.

INCOME	1 Dividends (Enter full amount before exclusion)	60,000	
	2 Interest		
	3 Income from partnerships and other fiduciaries		
	4 Gross rents and royalties		
	5 Gross profit (loss) from trade or business		
	6 Net gain (loss) from capital assets (line 12, column 3, Schedule D, Form 1041)	40,000	
	7 Net gain (loss) from property other than capital assets (line 24, Schedule D, Form 1041)		
	8 Other income (State nature of income)		
	9 Total income (lines 1 to 8, inclusive)		100,000
DEDUCTIONS	10 Interest		
	11 Taxes		
	12 Fiduciary's portion of depreciation (Schedule A) and depletion. Explain depletion		
	13 Charitable deduction (line 9, Schedule B)	20,000	
	14 Other deductions (Itemize)		
	15 Total (lines 10 to 14, inclusive)		20,000
	16 Line 9 minus line 15 (Complex trusts and estates enter this amount on line 1 in Schedule C also)		80,000
	17 Deduction for distributions to beneficiaries	60,000	
	18 Adjustment of dividend exclusion		
	19 Federal estate tax attributable to income in respect of a decedent (Fiduciary's share)		
	20 Long-term capital gain deduction. Enter 50% of line 13(e), Schedule D, Form 1041	20,000	
	21 Exemption		
	22 Total (lines 17 to 21, inclusive)		80,000
	23 Taxable income of fiduciary (line 16 minus line 22)		0
COMPUTATION OF TAX	24 Tax on amount on line 23 (See tax rate schedule)		
	25 If alternative tax is applicable, enter the tax from line 22, Schedule D, Form 1041		
	26 Tax surcharge (See instruction 26)		
	27 Total (line 24 or line 25, whichever is applicable, and line 26)		
	28 Fiduciary's share of foreign tax credit (Attach Form 1116)		
	29 Fiduciary's share of investment credit (Attach Form 3468)		
	30 Total (lines 28 and 29)		
	31 Balance (line 27 less line 30)		
	32 Tax from recomputing fiduciary's share of prior year investment credit (Attach statement)		
	33 Total (lines 31 and 32)		
	34 Fiduciary's share of credit for tax paid at source on tax-free covenant bond interest		
	35 Credit for nonhighway Federal gasoline tax and lubricating oil (Attach Form 4136)		
	36 Credit for regulated investment companies (Attach Form 2439)		
	37 Tax previously paid or withheld (Attach explanation)		
	38 Total (lines 34 to 37, inclusive)		
	39 Balance of tax due (line 33 less line 38)		
	40 Overpayment (line 38 less line 33)		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

Sign here ▶ _____ Signature of fiduciary or officer representing fiduciary — Date

▶ _____ Signature of preparer other than fiduciary — Address — Date

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EXHIBIT B

Schedule A.—DEPRECIATION—Taxpayers using Revenue Procedures 62-21 and 65-13: Make no entry in column 2, enter the cost or other basis of assets held at end of year in column 3, and enter the accumulated depreciation at end of year in column 4.

1. Group and guideline class or description of property	2. Date acquired	3. Cost or other basis	4. Depreciation allowed or allowable in prior years	5. Method of computing depreciation	6. Life or rate	7. Depreciation for this year
1 Total additional first-year depreciation—estates only (do not include in items below) →						
2 Totals						
3 Less amount of depreciation claimed elsewhere on return						
4 Balance (line 2 less line 3)						
5 Fiduciary's portion of line 4. Enter here and on line 12, page 1						

Schedule B.—CHARITABLE DEDUCTION—(Attach statement giving name and address of charitable organization.)

1 Amounts paid or permanently set aside for charitable purposes from current year's income		
2 Tax-exempt interest allocable to charitable distribution		
(Complete lines 3 and 4 below only if gain on line 11, column 2, Schedule D, Form 1041, exceeds loss on line 10, column 2, Schedule D, Form 1041)		
3 (a) Long-term capital gain included on line 1 (Do not complete lines (b) and (c) if such amounts are greater than line (a))		
(b) Enter gain on line 11, column 2, Schedule D, Form 1041, minus loss on line 10, column 2, Schedule D, Form 1041		
(c) Enter gain on line 11, column 3, Schedule D, Form 1041, minus loss on line 10, column 3, Schedule D, Form 1041		
4 Enter 50% of the smallest of line 3(a), line 3(b), or line 3(c)		
5 Enter sum of line 2 and line 4		
6 Balance (line 1 minus line 5)		
7 Enter short-term capital gains and 50% of the long-term capital gains of the current taxable year allocable to corpus, paid or permanently set aside for charitable purposes		20,000
8 Amounts paid or permanently set aside for charitable purposes other than from income of the current year		
9 Total (line 6 plus lines 7 and 8). Enter here and on line 13, page 1		20,000

Schedule C.—DISTRIBUTABLE NET INCOME AND DISTRIBUTIONS DEDUCTION

1 Enter amount from line 16, page 1	80,000
2 Add: (a) Tax-exempt interest (as adjusted)	
(b) Net gain shown on line 12, column 1, Schedule D, Form 1041. If net loss, enter zero	
(c) Lines 4 and 7, Schedule B	20,000
(d) Short-term capital gain included on line 1, Schedule B	
(e) If amount on line 6, page 1, is a loss, enter amount here	
3 Total (line 1 through line 2(e))	100,000
4 If amount on line 6, page 1, is a gain, enter amount here	40,000
5 Distributable net income (line 3 minus line 4)	60,000
6 Amount of income required to be distributed currently	60,000*
7 Other amounts paid, credited, or otherwise required to be distributed	
8 Total (lines 6 and 7)	60,000
9 Enter the total of tax-exempt income included on lines 6 and 7	
10 Balance (line 8 minus line 9)	60,000
11 Enter distributable net income (line 5, above)	60,000
12 Enter the amount from line 2(a), above	
13 Balance (line 11 minus line 12)	60,000
14 Distributions deduction. Enter here and on line 17, page 1, the lesser of line 10 or line 13 above	60,000

1 Date trust was created or, if an estate, date of decedent's death.

2 If return is for an estate, has a United States Estate Tax Return been filed? ☐ Yes ☐ No. If "No," will return be filed? ☐ Yes ☐ No ☐ Uncertain.

3 If you had tax-exempt income, have you deducted only that portion of expenses allocable to taxable income? ☐ Yes ☐ No.

4 Has final distribution of assets been made during the year? ☐ Yes ☐ No.

5 If the estate or trust received income from a nominee, state name, employer identification number, and address of nominee.

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*To be shown either on line 6 or on line 7, depending upon whether income is required to be distributed currently.

SCHEDULE D (Form 1041) U.S. Treasury Department Internal Revenue Service — Gains and Losses From Sales or Exchanges of Property — 1968

Name of estate or trust

Part I—CAPITAL ASSETS—Short-Term Capital Gains and Losses—Assets Held Not More Than 6 Months

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1						
2 Enter your share of net short-term gain (or loss) from partnerships and other fiduciaries						
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement)						
4 Net short-term gain (or loss) from lines 1, 2, and 3. Enter here and on line 10 below						
Long-Term Capital Gains and Losses—Assets Held More Than 6 Months						
5						40,000
6 Enter the full amount of your share of net long-term gain (or loss) from partnerships, other fiduciaries, etc.						
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement)						
8 Capital gain dividends						
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8. Enter here and on line 11 below						40,000

CAPITAL GAINS AND LOSSES

	1. Beneficiaries	2. Fiduciary	3. Total
10 Net short-term gain or loss from line 4, above			
11 Net long-term gain or loss from line 9, above		40,000	40,000
12 Total net gain or loss		40,000	40,000

Enter on line 6, page 1, Form 1041, the net gain shown on line 12, column 3, above. If net loss on line 12, column 3, above, enter as loss on line 6, page 1, Form 1041, whichever of the following is the smallest amount: (i) the amount of the loss, (ii) taxable income computed without regard to capital gains and losses and the deduction for exemption, or (iii) $1,000.

COMPUTATION OF FIDUCIARY'S CAPITAL GAINS DEDUCTION

13(a) Long-term capital gain shown on line 11, column 3, above	40,000
(b) Short-term capital loss shown on line 10, column 3, above	
(c) Excess of line 13(a) over line 13(b), above	40,000
(d) Long-term capital gains taxable to beneficiaries	
(e) Balance (line 13(c) minus line 13(d)). (Enter 50% of this amount on line 20, page 1, Form 1041.)	40,000

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—Assets Held More Than 6 Months—Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale
14				

f. Depreciation allowed (or allowable) since acquisition: f-1, Prior to January 1, 1962 — OR — Prior to January 1, 1964	f. Depreciation allowed (or allowable) since acquisition: f-2, After December 31, 1961 — OR — After December 31, 1963	g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) — OR — (see instructions)	j. Other gain (h less i)
15 Total ordinary gain. Enter here and in column g, line 23, Part III					
16 Total other gain. Enter here and in column g, line 5, Part I; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property, enter the total of column j in column g, line 23, Part III					

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COMPUTATION OF ALTERNATIVE TAX

If fiduciary had a net long-term capital gain or an excess of net long-term capital gain over net short-term capital loss shown in column 2, line 12, and line 23, page 1, Form 1041, exceeds $26,000, it may be to his advantage to make the alternative tax computation.

17 Amount from line 23, page 1, Form 1041	
18 50% of amount on line 13(e)	
19 Balance (line 17 minus line 18)	
20 Tax on amount on line 19 (see tax rate schedule)	
21 50% of amount on line 18, above	
22 Alternative tax (line 20 plus line 21); if less than line 24, page 1, Form 1041, enter this amount on line 25, page 1, Form 1041	

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property (If necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
23						
24 Net gain (or loss). Enter here and on line 7, page 1, Form 1041						

INSTRUCTIONS
(References are to the Internal Revenue Code)

Gains and losses from sales and exchanges of capital assets and other property.—In computing gross income no distinction is made between gains and losses allocable to income account and those allocable to corpus account.

"Capital assets" defined.—The term "capital assets" means property held by the estate or trust (whether or not connected with the trade or business) but does NOT include—

(*a*) stock in trade or other property of a kind properly includible in inventory if on hand at the close of the taxable year;

(*b*) property held by the taxpayer primarily for sale to customers in the ordinary course of trade or business;

(*c*) property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 167;

(*d*) real property used in the trade or business of the taxpayer;

(*e*) certain government obligations issued on or after March 1, 1941, at a discount, payable without interest and maturing at a fixed date not exceeding one year from date of issue;

(*f*) certain copyrights, literary, musical, or artistic compositions, etc.; or

(*g*) accounts and notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property referred to in (*a*) or (*b*) above.

Gains and losses from transactions described in section 1231 (see below) shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the total of these gains exceeds the total of these losses. If the total of these gains does not exceed the total of these losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets. Thus, in the event of a net gain, all these transactions should be entered in the "long-term capital gains and losses" portion of Schedule D. In the event of a net loss, all these transactions should be entered in the "property other than capital assets" portion of Schedule D, or in other applicable schedules on Form 1041.

Section 1231 deals with gains and losses arising from—

(*a*) sale, exchange, or involuntary conversion, of land (including in certain cases unharvested crops sold with the land) and depreciable property if they are used in the trade or business and held for more than 6 months,

(*b*) sale, exchange, or involuntary conversion of livestock (but not including poultry) held for draft, breeding, or dairy purposes and held for 1 year or more,

(*c*) the cutting of timber or the disposal of timber, coal, or domestic iron ore to which section 631 applies, and

(*d*) the involuntary conversion of capital assets held more than 6 months.

See sections 1231 and 631 for specific conditions applicable.

Gain from disposition of depreciable property under sections 1245 and 1250—Assets held more than 6 months (Part II).—(Report any gain from such property held for 6 months or less in Part III.) Except as provided below, section 1245 property means depreciable (*a*) personal property (other than livestock) including intangible personal property; and (*b*) tangible real property (except for buildings and their structural components) if used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or used as a research or storage facility in connection with these activities; and (c) elevators and escalators.

Except as provided below, section 1250 property means depreciable real property (other than section 1245 property).

See sections 1245 (b) and 1250 (d) for exceptions and limitations involving: (*a*) disposition by gift; (*b*) transfers at death; (*c*) certain tax-free transactions; (*d*) like kind exchanges, involuntary conversions; (*e*) sales or exchanges to effectuate FCC policies and exchanges to comply with S.E.C. orders; (*f*) property distributed by a partnership to a partner; and (*g*) disposition of principal residence (section 1250 only).

Column f of Part II.—In computing depreciation allowed or allowable for elevators or escalators, enter in column f–1 depreciation prior to July 1, 1963, and in column f–2 depreciation after June 30, 1963.

Column i of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f–2. If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or (2) column f–2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month the property was held in excess of 20 months. Where substantial improvements have been made within the preceding 10 years, see section 1250 (f).

(Instructions continued on reverse of duplicate)

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Service of the within and receipt of a copy thereof is hereby admitted this ..... day of August, A.D. 1978.

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